

BACKGROUND PAPER FOR HEARING

PHYSICIAN ASSISTANT COMMITTEE

IDENTIFIED ISSUES, QUESTIONS FOR THE BOARD AND BACKGROUND CONCERNING THE ISSUES

PRIOR SUNSET REVIEW: The Physician Assistant Committee (PAC) was last reviewed by the Joint Legislative Sunset Review Committee (JLSRC) four years ago (1997-98). The JLSRC and the Department of Consumer Affairs (DCA) identified a number of issues and problem areas concerning the PAC and directed the Board to address these concerns and implement a number of changes as recommended. Some of these included: (1) justify the need to provide prescriptive authority to Physician Assistants (PAs); (2) justify the need to continue with the approval of supervising physicians for Physicians Assistants (PAs); (3) apply limited liability provisions and good Samaritan laws to PAs; (4) justify why supervising physicians should be allowed to supervise more than 2 PAs; (5) eliminate requirement that PAC approve PA-training programs; (6) indicate what PAC has done to encourage the utilization of PAs by physicians in underserved areas, and to assure that programs are developed for education and training of PAs; (7) change the composition of the PAC to include more public members. The JLSRC also found that there was sufficient evidence to recommend the continued licensure of PAs and extend the sunset of the PAC.

In September, 2001 the PAC submitted its required sunset report to the JLSRC. In this report, information of which is provided in Members' binders, the PAC described actions it has taken since the PAC's prior review. The PAC addressed some of the issues presented by the JLSRC and Legislature over the past four years and also implemented some of the following changes pursuant to legislation and on its own initiative since its last review. This included:

- Pursued legislation to eliminate requirement that Physician Assistant Supervisors submit an application, pay a fee, and receive Medical Board approval to supervise a PA.
- Pursued legislation to give PAs the ability to obtain their own DEA numbers and issue drug orders rather than allowing outright prescriptive authority.
- Pursued legislation to apply limited liability provisions and good Samaritan laws to PAs.
- Pursued legislation to change the composition of the PAC to add two additional public members.
- Created web site as of October 2000 for consumers, applicants, PAs, and physician assistant supervisors.

Beginning on the next page are a number of unresolved issues pertaining to the PAC, or areas of concern for the JLSRC, along with background information concerning the particular issue. There are also questions that staff has asked concerning the particular issue. The PAC was provided with these issues and questions and is prepared to address each one if necessary.

CURRENT SUNSET REVIEW ISSUES

COMMITTEE POWERS AND DUTIES ISSUES

ISSUE #1: There were numerous vacancies on the Physician Assistant Committee (PAC) which prevented them from having a quorum and taking specific actions as needed?

Question #1 for the Board: What problems did a lack of a quorum cause for the PAC? Is the PAC now meeting with a quorum of members and have subcommittees been established to carry out the functions and responsibilities of the PAC?

Background: The PAC did not have a quorum from January 1, 2001 until May 11, 2001 (term limits and a resignation limited membership to only 3 or 9 members), and as of the September sunset report, the PAC had not as yet decided what subcommittees they wished to form to carry on the duties of the PAC. Prior to this there were four subcommittees:

- Executive and Budget Subcommittee
- Physician Education and Public Affairs Subcommittee
- Legislation and Regulation Subcommittee
- Licensing and PA Training Programs Subcommittee

BUDGETARY ISSUES

ISSUE #2: The PAC has a significant reserve, almost two years worth of budgetary expenditures, yet they indicate a fee increase will be necessary?

Question #2 for the Board: Why does the PAC believe that a fee increase may be necessary?

Background: In July 1, 2001, the fee charged to PA supervisors was eliminated along with the requirement for approval of supervising physicians of PAs. Fee revenue from PA supervisors provided approximately 60% of the PAC revenue. As indicated by the PAC, the fund condition will decline appreciably over the next 2 to 3 years. This may necessitate a fee increase.

ISSUE #3: There appears to have been almost a 60% increase in physician assistants licensed by the PAC over the past eight years.

Question #3 for the Board: Please explain why there has been such a significant increase in the number of physician assistants being licensed by the PAC. Does this increase reflect a change in the way that physician assistants are being utilized in the health care delivery system? Is this causing workload or budgetary problems, or any delays in the licensing of physician assistant applicants?

Background: In the past eight years, there has been a substantial increase in the number of PAs licensed within California. In FY 1993/94, there were approximately 2300 PAs licensed by the PAC. In FY 2000/01, the PAC licensed almost 3900 PAs.

LICENSURE ISSUES

ISSUE #4: Should a “second pathway” to licensure, that allows a graduate of medical school to apply for a physician assistant license, be eliminated?

Question #4 for the Board: *Why does the PAC believe this second pathway to licensure should be eliminated? Could potential candidates be impacted if it is eliminated?*

Background: During the PAC’s last sunset review this issue was considered. The JLSRC made no recommendation at that time, but indicated instead that the PAC should provide further evidence on the impact, if any, of this change to international medical graduates (IMGs) and what steps could be taken to assure fair treatment of IMGs in meeting the requirements for licensure as a PA. The PAC is again recommending that this second pathway to licensure be eliminated. The PAC is concerned that the ability of students who have graduated from medical school and practice as PAs ignores the complexity and sophistication of current PA practice, and that no graduate of a medical school has still ever applied to be licensed as a PA. Also, a person attempting to become licensed as a medical school graduate would be unable to qualify to sit for the licensing examination. With respect to IMGs, the PAC stated that the law is clear that they must complete an approved PA training program and complete the written examination.

ISSUE #5: Should the PAC be granted authority to provide a “probationary certificate,” similar to the Medical Board, for applicants who may otherwise be denied a license because of prior convictions?

Question #5 for the Board: *Why does the PAC believe authority to grant a “probationary certificate” for certain applicants for licensure is necessary?*

Background: One of the frustrations expressed by the PAC, deals with applicants who have had convictions prior to licensure. These convictions could be for a variety of reasons (e.g., drug or alcohol problems, criminal convictions, malpractice problems). Currently, the PAC has only two options: grant or deny the license. If the PAC makes the decision to deny, the applicant has the right to challenge this decision. If they decide to challenge the decision and the PAC chooses to fight this challenge, the PAC, through legal counsel with the Attorney General's office, must file a Statement of Issues. This can be a lengthy and costly process.

At least one other health care regulatory agency, The Medical Board of California, has legal provisions for a probationary certificate. This is an initial license that allows an individual to practice with certain restrictions. If the individual violates any of the terms of their conditions to practice, their license is revoked and they must cease practice. However, if they successfully complete the terms of their practice requirements, they receive a clear and unrestricted license. Such an approach has at least two advantages as expressed by the PAC. First, it gives the PAC another tool to use for applicants who have a past conviction or disciplinary action against another license they hold and is less expensive than having to file a Statement of Issues and still provides consumer protection. Second, it provides the PAC with a mechanism to monitor individuals who may have practice problems.

ISSUE #6: Is the PAC meeting its legislative mandate to encourage the utilization of physicians assistants by physicians in underserved areas of the State, and to allow development of programs for the education and training of physicians assistants?

Question #6 for the Board: *Has the PAC consulted with the Office of Statewide Health Planning to assess whether physician assistants are being appropriately utilized in underserved areas, and with other appropriate agencies and educational institutions to assure that programs are being developed for the education and training of physician assistants? Did the PAC submit recommendations for the improvement in both of these areas to the Legislature in March 1, 2000, as requested by the Joint Committee?*

Background: During the PAC's last sunset review this issue was considered. The JLSRC recommended that the PAC consult with the Office of Statewide Health Planning to assess whether PAs are being appropriately utilized in underserved areas, and with other appropriate agencies and educational institutions, to assure that programs are being developed for the education and training of PAs. Recommendations for improvement in both of these areas should be forwarded to the Legislature for consideration by March 1, 2000. Unfortunately, it does not appear as if the PAC has taken any regarding this recommendation.

PROFESSIONAL PRACTICE ISSUES

ISSUE #7: Should supervising physicians be allowed to supervise four physician assistants rather than just two, as is currently permitted by law?

Question #7 for the Board: *Please explain why the PAC believes that the ratio of supervising physicians to physician assistants should be changed?*

Background: During the PAC's last sunset review this issue was considered. The JLSRC concurred with the recommendation of the PAC, at that time, for the PAC to pursue legislation to allow physicians to supervise at least four PAs, as long as the supervising physician and PAs were not involved in a more complicated medical specialty. It does not appear that the PAC took any action pursuant to this recommendation, even though initially recommended by the PAC to the JLSRC. The PAC is again recommending that the ratio of PAs to a supervising physician be four.

ENFORCEMENT ISSUES

ISSUE #8: Disciplinary actions taken by health care facilities against physician assistants are not required to be reported to the PAC. Nor are felony convictions, malpractice settlements or judgments, or arbitration awards?

Question #8 for the Board: *Why shouldn't disciplinary actions taken by a health care facility, such as suspension, denial or termination of the physician assistants privileges within a health facility, be reported to the PAC? What other information should be reported to the PAC? What about disciplinary actions taken by a supervising physician?*

Background: As indicated by the PAC, currently, any consumer who inquires about a PA is only told:

- If a person is licensed as a PA in California and their license number.
- The date a PA's license was issued, and the date it will expire if not renewed.
- The PA training program a PA graduated from and the year of graduation.
- The status of a PA's license, e.g., renewed/current, cancelled, revoked, etc.
- If there has been a proposed or disciplinary action against a PA.

Consumers cannot find out about the following information because the law currently does not require that it be reported to the PAC as it does for other health care professions:

- If a PA has been convicted of a felony.
- Malpractice judgements or arbitration awards.
- Any hospital disciplinary actions that resulted in the termination or revocation of a PA's. hospital staff privileges for a medical disciplinary cause or reason.

While some of this information has been voluntarily supplied to the PAC, without legal requirements to release it, the PAC is unable to inform consumers. Also, as indicated by the PAC, since the PA profession has grown and an increasing number of PAs are working in hospitals, it is reasonable that PAs have the same requirements as physicians and other health care providers. Most importantly, this information will allow the PAC to determine if disciplinary action is needed so it can better fulfill its mandate to protect consumers.

DIVERSION PROGRAM ISSUES

ISSUE #9: Costs for the PAC of the Diversion Program increased significantly over the past four years -- from \$6,725 to \$23,710 -- with only one or two successful completions within the program per year.

Question #9 for the Board: *Why should the Diversion Program for physician assistants be continued?*

Background: As indicated by the PAC, the Diversion Program is unique in that the PAC contracts with a private firm (Managed Health Net Services) to provide services to PAs with alcohol or drug dependency problems. While the average cost of these services for the past four years was approximately \$10,200 per year, the PAC believes that this money was well spent because it provides consumer protection since PAs can seek treatment either voluntarily or as part of a formal disciplinary probation requirement. Moreover, the PAC staff is alerted should a PA fail to successfully complete the program. With this warning staff is able to take appropriate action that ensures public protection. With this program, consumers are better protected from PAs whose practice may be compromised because of alcohol or drug dependency problems.